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ABSTRACT

For colleges and universities, faculty unionism has evidenced the potential to change significantly the nature of institutional relationships. Collective bargaining has brought into the system a different philosophy than the traditional scholarly one of shared authority. As a result, collective bargaining has created a new dimension for governing boards in the management of their institutions, and unionism must enter, explicitly and implicitly, into the deliberations of trustees. It is important, however, that boards place unionism in the perspective of other developments affecting the governance of colleges and universities, since it is one of a number of influences that impact on the corporate authority of governing boards. (MSE)

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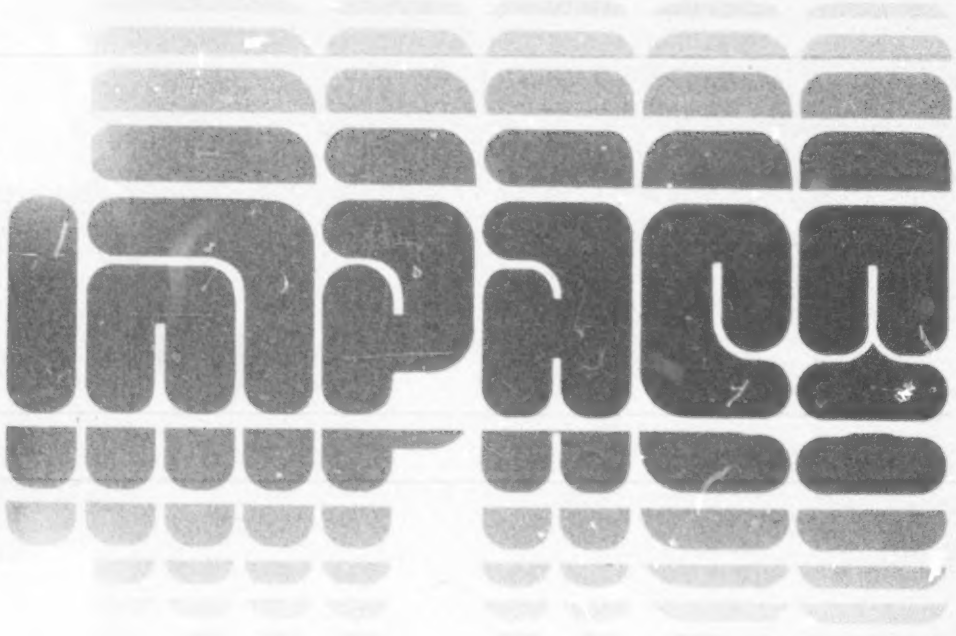

On Governance

Collective Bargaining:

Impact

On Governance

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PREFACE

This publication reports the findings of a study undertaken to analyze the influence—both operative and potential—of faculty collective bargaining on the manner in which governing boards carry out their responsibilities. It has drawn upon interviews with governing board members, presidents and major administrators, and faculty members in six institutions representing the spectrum of higher education—a community college, three private institutions, a public institution and a state college system. The nature of this investigation is described briefly in Appendix One.

The following discussion has been submitted as a contribution to the manner in which American colleges and universities adapt to the new mode of faculty-administration/board relationships inherent in collective bargaining by faculty and, at times, other professional staff members.

I. INTRODUCTION

Collective bargaining by faculty members in American postsecondary institutions, now in its second decade, came upon the academic scene with a historical abruptness that has startled many an academician, administrator, and governing board member. Yet what may have been a radical idea ten years ago has spread to more than 450 campuses, and demonstrates no evidence of slowing down.

For colleges and universities, faculty unionism has evidenced the potential to change significantly the nature of institutional relationships. Until the mid-1960s, the thrust of faculty professionalism had been that designated as "shared authority." This concept recognizes the importance of academic expertise in institutional decision-making; it is supported by a delegation of authority on the part of governing boards and formalized in joint administrative-faculty bodies, such as senates. While this participation did not occur in many newer institutions dominated by presidents and operated more like school systems or businesses, by the mid-1960s the concept of shared authority set the standard to which, by and large, academicians aspired.

Collective bargaining has brought into the system a different philosophy for institutional relationships. Its precedents lie in the practices of business and industry, the public schools, and governmental administration. It rests upon a recognition in law of the right to negotiate and, to date, has supported an adversarial dualism epitomized by two sides facing each other across a bargaining table rather than collaborating in institutional councils. It has an authority which is based not upon delegation from

governing boards as corporate bodies but on a written contract.[1]

As a result collective bargaining has created a new dimension for governing boards in the management of their institutions. Although the administrator must contend with its immediate impact, unionism inevitably must enter, explicitly and implicitly, into the deliberations of trustees.

As boards respond to this intrusion, however, it is important, in our view, that they place it in the perspective of other developments also affecting the governance of colleges and universities. In this sense, unionism may constitute one of a number of influences which impact upon the corporate authority of governing boards for the management of their institutions.

During the late sixties and early seventies colleges and universities lost that calm security associated with status and success, reflective of higher education's rise to affluence and eminence as the doorkeeper for middle class careers and the source of valued scientific and technological expertise. First the civil rights movement and then the student-faculty radicalism associated with the Vietnam war created disruptions that imparted a sense of internal uncertainty and, at times, fear, and undermined public support. The impact of this radicalism had hardly begun to subside when an even more pervasive force in the form of an economic recession moved in. Private colleges and universities have struggled to maintain solvency; public ones have had to sustain their programs with the curtailed purchasing power of public appropriations.

Concurrently, evidence has begun to appear over the past two decades of the consequences of increased public support. Federal funding of research, monies for construction, provision for student loans, and legislation to protect minority rights have been accompanied by policy guidelines.

In the public sector, one finds a trend toward centralization of authority. In state after state, agencies have been established with jurisdiction over all of public higher education (in a few instances excluding community colleges) and with the charge to plan and coordinate the orderly development of its institutions. Today, only three states have neither a coordinating board nor a consolidated governing board. Systems of colleges and universities with central administrative agencies have increasingly appeared as a consequence of this shift in control. In turn, executives of state government have extended the scope of their supervision. This has been the case especially for budget determination and implementation – and thus for institutional financial management – but it has appeared for personnel affairs and for coordination of educational programs offered and the development of related physical facilities.

Internally, the scope of a board's legal powers contrasts with its actual involvement in institutional affairs.

1. It should be noted that the word "contract" has been used to identify an agreement reached between faculty unions and the representatives of the "management" of colleges and universities. In legal parlance, the word "agreement" is the proper one, but "contract" is the term more generally used and, therefore, considered appropriate for this report.

Growing size and administrative complexity require deference to presidential leadership, a condition enormously amplified for statewide systems of higher education. A tradition has gained significant recognition in higher education that boards should delegate control over major educational affairs to faculty governing bodies. This has been supported by disciplinary and professional societies and accrediting agencies which set educational standards and values and interpose them as leverages in the internal decision-making process. Finally, the student violence of the late 1960s brought with it pressures, frequently acceded to, for student involvement in internal governance and occasionally membership on institutional and board committees.

These developments form the backdrop for an examination of academic collective bargaining. Unionism does more than present another complication for institutional governance; it carries with it new forces arising from both internal and external sources which add to those pressing upon the authority of boards.

On the one hand, boards at institutions with faculty unions find themselves less concerned with the extent to which they will delegate to their professional staff the opportunity to participate in institutional decision-making. They have to face up to the consequences of negotiations with legally established "equals" across the bargaining table, terminating in legally binding contracts.

On the other hand, they have to recognize the authority of employment relations boards, external arbitrators, and the courts in decisions involving their relationships with faculty members and, at times, other professional personnel. Furthermore, they find their adversaries in the process buttressed with the financial power and influence of national associations, one of which has a formal alignment with a major labor union, the AFL-CIO[2].

It is with this orientation that the following discussion seeks to derive from the campus visits significant insights of value to trustees, administrators, and faculty members who face the consequences of this new form of organizational relationship. The report first will review briefly the functions of the governing boards included in the study. Second, it will present in some detail the evidence uncovered of the impact of unionism upon board functions, including pertinent observations associated with other investigations in New York, New Jersey, and Pennsylvania. In conclusion, it will discuss a number of general observations which have emerged from the analysis.

2. With very few exceptions, primarily community colleges in New York and law and other professional schools, college and university faculties have organized as chapters of the American Association of University Professors (AAUP), the American Federation of Teachers (AFT), associated with the AFL-CIO, and the National Education Association (NEA).

II. FUNCTIONS OF BOARDS

As we reviewed our interviews preparatory to an analysis of findings for the study, several considerations emerged which underlie in a general way the more specific points which are presented in the following section. This section will discuss these considerations briefly as a backdrop to the specific findings.

Legal Background

The numerous articles and books written about governing boards in higher education give relatively little attention to the nature of trustee corporate authority in practice. A parallel observation holds for discussions of academic collective bargaining. Yet the question of legal authority—and responsibility—is critical.

In 1976 it surfaced rather dramatically at the University of Bridgeport, whose trustees refused to accept a negotiated agreement (although not a formal contract, it should be noted). The agreement left final decisions related to program development and retrenchment to a "University Productivity Committee," consisting of administrators and faculty members, the latter selected by the union. The committee was given responsibility for reviewing the educational income and expense for each of the University's colleges in terms of plans submitted to it. College plans approved by the committee were to "become the budgets of those colleges and . . . final and binding upon the colleges and the parties [to the agreement]."

The Bridgeport trustees took the position that this commitment would conflict with their legal responsibility for financial management under the institution's charter, and refused to accept the agreement. In the words of one trustee, the arrangement constituted "a surrendering of control while we are still responsible." The question was appealed to a hearing officer of the National Labor Relations Board. However, the trustees rested their position upon a stipulation made earlier in the negotiations which gave them the right to approve the agreement prior to its becoming a formal contract, rather than upon the question of conflict with the charter.

This issue of the primacy of statutory or constitutional law or institutional charter over provisions of a collective bargaining agreement likely will receive judicial review in time. However, while raised here in connection with a private institution, legal authorities consulted on the question indicated that it is more germane to public colleges and universities. The NLRB position appears to be the same for colleges as for private businesses, that there are no limits upon what a management may agree to negotiate.

Deliberate and Pro Forma Decisions

In the literature dealing with the role and function of governing boards, a 1957 Columbia University report still appears accurate. It stated that " . . . all constitutions and by-laws notwithstanding, the actual governing is widely

acknowledged to be a matter of extremely flexible give and take.[1]

As we discussed this thought with trustees and presidents during the interviews, it became apparent that board decisions were of two kinds: (1) those in which the question at hand was given deliberate board attention; and (2) those which the board handled on a more or less *pro forma* basis upon recommendation of the president. The selection of a president is a prime example of the former. The latter tend to be necessitated by legal obligations requiring formal board action, although they do not involve matters which trustees viewed as critical to their role. Approval of appointments and promotions constitutes a good example. In practice, *pro forma* actions imply a delegation of management to the president. Also, trustees participate in a variety of other activities having to do with the welfare of the institution, such as fund raising, legislative relations, community support, and public relations.

Collective bargaining tends to center on matters in the *pro forma* category, which primarily involve terms and conditions of employment, even though at times these can be broadly construed. As noted, these matters by and large constitute that part of management for which boards rely heavily upon the recommendations of the president. As a consequence, trustees tend not to be well informed in this area and thus not sensitive to the issues and implications which it raises for their role and function.

Other Elements

Other elements entered into the extent to which individual trustees proved both involved in and knowledgeable about collective bargaining. These had to do with the manner in which boards handle their affairs.

First, what might be called the "real power" within these bodies tended to rest with a small minority of individuals who evidenced more skill in the handling of board affairs and who devoted more time to their trusteeship. Boards uniformly functioned through committees, usually meeting in advance of regular sessions of the total membership. The composition of these committees reflected the power structure of the board, with the executive and financial committees including the most influential members. These subgroups, especially the latter two committees, assumed increased significance as regular board meetings were opened to the public and/or included faculty and, at times, student members.

Second, involvement of trustees in institutional affairs not unexpectedly varied among the different types of colleges and universities. In the community college, serving a limited geographical area and responsible to a local county legislature, which selected board members, they were far more intimately involved in internal affairs. The more active and influential trustees maintained a regular

1. *The Role of the Trustees of Columbia University: Report of the Special Trustees Committee*, William S. Paley, chairman (New York: Columbia University, 1957).

contact with the president and, at times, other administrators; board meetings were held monthly; board committees met relatively frequently, especially those for executive and financial affairs; trustees were more intimately informed about the college and had a relatively better sense of how the institution did, and should, serve its constituency.

The private institutions had much larger boards, as is normal, which tended to lead to a greater number of minimally involved trustees, and thus to accentuate the role of the "ruling elite." The full board met less frequently. The state institutions represented a median situation in which more frequent meetings of the full board were held than in the private sector.

Other factors also influence trustee involvement, such as the traditions and practices associated with individual institutions, the nature of individuals serving at any one time, the impact of political considerations in terms of selection of members and relations with legislative bodies for publicly selected boards, and other idiosyncratic circumstances. One must remember also that some private colleges and universities have a local orientation, others have a regional one, and some are national in service.

On a different vein, public boards suffered from appointments reflecting political considerations rather than the quality and educational commitment of individuals chosen, while private board membership evidenced philanthropic potential, personal judgments, and at times presidential desires to maintain leadership.

Role of President

It became quite clear, also, from the start of the investigation that board members on the whole related to faculty unionism and the process of collective bargaining through the president. This reflected, obviously, the fact that this officer usually determined the formal board agenda and subsequently directed the implementation of policies and other decisions made by the board. Within meetings of board committees, and of the board itself, presidential judgments and recommendations carried a determining influence. This is clear enough in general practice. For this study it suggests that any perception of the impact of academic collective bargaining upon trustees must, in reality, encompass the impact it has upon presidents *and* trustees, their relationships as well as their manner of operation.

An inquiry into this relationship drew a mixed response. Some individuals interviewed saw no change in presidential-board relationships under collective bargaining. In the words of one administrator, "Collective bargaining has not altered the manner in which the trustees function, nor has it altered their relationships with the president." However, overall, respondents did indicate that boards have begun to view their institutions somewhat differently in this respect. As one trustee comment-

ed, "We have begun to perceive the president as one element and the faculty as another."

Reflecting upon the general role of governing boards, we were concerned with the question of whether collective bargaining has tended to encourage trustees to take an increasingly active role in internal affairs. Our sense of the situation is affirmative, although in state college systems for which unions negotiate with agencies of the state government the converse is a more likely outcome, as is the case in New York, New Jersey, and Pennsylvania.

This change, however, was more perceived than documented, and characterized by one administrator as "a subtle difference, difficult to identify." Trustees displayed a greater sensitivity to the concerns and interests of faculty members and about the implications of obligations formalized in contracts, especially those related to grievance procedures. This tendency is confirmed also in a study of three community colleges which reported that "board members commented that their outward functions had not changed but that there was, indeed, a subtle difference" in that unionism had "forced them to ask more questions than before and had made them more aware of educational matters . . ."[2]

2. Rose Channing, Stuart Steiner and Sandra Timmerman, "Collective Bargaining and Its Impact on Board-President Relationships," in *Collective Negotiations in Higher Education*, ed. by Michael Brick (New York: Community College Center, Teachers College, Columbia University, 1973).

III. ANALYSIS OF FINDINGS

In a discussion of academic collective bargaining, one hears the frequent comment, "It's a new ball game." To judge from the investigation for this study, the comment holds considerable validity. This section will examine in terms of specific organizational functions how the "game" has been altered as a consequence of faculty unionism.

As the previous section suggests, governing boards serve primarily as overseers rather than managers. They leave managerial responsibilities to their executive, the president. Within this role, they maintain a concern for the general welfare of the institution, an overview of academic affairs and public relations, and a direct involvement in its financial viability. They undoubtedly react as a body to occasional specific issues, especially those which strike an emotional response. Nevertheless, boards do hold legal responsibility, usually as private or public corporate bodies, for the total operation of the college or university.

The question follows, therefore, as to whether collective bargaining has altered this traditional role. To elicit an answer, the interviews probed the perceptions of faculty members, major administrative officers, and board members on seven major organizational functions which directly or indirectly constitute matters of board responsibility in relations with faculty members:

Financial affairs, which include budget as the instrument for decisions related to a general determination of what an institution can do within the limitations of its financial resources.

Personnel policies, which concern appointments, promotions, tenure awards, and retirement.

Programmatic affairs, which involve the determination of the academic activities the institution will engage in (instruction, research and scholarship, and direct public service).

Governance determinations, which have reference to faculty and administrative participation in policy decision making.

External relations, which include the relationships maintained between the institution and its various constituencies: the local community, sources of financial support, alumni, and local, state and federal governments.

Contract administration, which encompasses the procedures and policies related to the substance of the agreement reached with the faculty union.

Internal relations, which have to do with information distribution and control and especially the interactions between board and faculty members.

This section examines the responses for each of these functions. It should be noted at the outset that the report

does not deal with how boards and presidents should respond to unionism or how they can avoid or minimize its impact. The focus is on the extent to which academic unionism imposes contraints upon how presidents and boards carry out their responsibilities and in what ways. To place these findings in perspective, this section first will describe very briefly why faculty members organized and how boards tended to respond to the fact of their organization.

The scenario among colleges and universities surveyed proved quite consistent in its essentials. Academic unionism appeared in response to a crisis, usually one of a financial nature, which manifested faculty feelings of impotence in support of its interests. At one university, the faculty senate's committee on salaries resigned after the president ignored their recommendations. At another, the reaction to decreasing financial resources, combined with a perception of administrative incompetence in handling the situation, led to a feeling of insecurity on the part of many faculty members.

At a third, faculty members viewed trustees as "doing little if anything" to obtain legislative support in increasing salaries which were lower than those for public schools. The latter situation was exacerbated by the board's unilateral establishment of a new policy on tenure. At a fourth, latent discontent with salaries became active when a new major administrator was appointed without the faculty consultation provided for in institutional statutes. At a fifth, faculty resentment of an "authoritarian president" led to a protest against what was viewed as a determination of teaching methods without faculty advice.

The local condition and/or incident which sparks unionism, however, well might have taken a different turn but for external forces encouraging bargaining. In each situation, faculty determination to organize had support and encouragement from the National Labor Relations Board's assumption of jurisdiction over private institutions, or of state legislation supporting the right of public employees to form bargaining units and select bargaining agents.

In addition, the three national associations (AAUP, AFT, and NEA) provided a ready reference for advice and assistance and, in most instances, had initiated at least a preliminary indication of interest. Thus, when faculties felt a lack of trust and confidence in the leadership of president and trustees, they had an alternative to the traditional governance arrangements.

The responses of both sides to this new mode of relationship were complex and to a high degree idiosyncratic. In certain situations the union obtained only minimal faculty support and remained weak. As a result, administrations and boards did not change their attitudes and policies and, in one instance, increased their support of the traditional senate.

In other situations, a strong faculty union led to what were perceived as excessive "demands" during initial negotiations and in turn elicited an antagonistic response from presidents and trustees. It was pointed out on several occasions that some board members had experience in industry, business, and school systems which conditioned them to negative opinions on all unionism. It came to their attention as a movement they knew about and opposed. In effect, the initiation of faculty unionism was accompanied on both sides by a lack of sophistication about collective bargaining and the relationships it necessitated.

In several institutions, the initial emotionalism quieted under the routine of negotiations and contract administration. As one board member stated, "There has been a growing maturity on both sides. Faculty have had to recognize the difference between their roles as teachers and their roles as bargaining agent members." The original union leaders gave way to those who recognized a community of interest for the welfare of the institution. Boards came to accept the new mode of relationship. In three institutions a major administrator was appointed to handle negotiations and contract administration. This individual developed a "working relationship" with the head of the union in arrangements for handling constructively problems which otherwise might create friction.

Relationships did not uniformly improve, however. In two instances, the initial antagonism increased rather than softened. Either the board members began to resist what they viewed as excessive concessions in the first contract, or faculty members perceived what they believed to be a lack of candor and integrity on the part of the president and board.

Whatever the causes and subsequent relationships, faculty collective bargaining does become a matter of board concern, despite the suggestion by some individuals interviewed that it has not altered the manner in which their institution is governed.

For one thing, boards serving as responsible corporate bodies have a responsibility for that which is bargained, especially as it affects budget and finance. Since unionism centers upon terms and conditions of employment, in which salaries and fringe benefits are key, boards either have to establish parameters for those who negotiate or take full responsibility for commitments made at the "table." Parenthetically, it should be noted that much board dissatisfaction with early contracts reflected inadequate communications with negotiators. Commitments made in negotiations at times place limits upon board initiative and flexibility in policy making.

The general impact was summed up in one interview by the following comment:

> Collective bargaining has made the trustees become more cognizant of their role, review matters before

them more carefully, take a more active role in university affairs, and pay closer attention to the distribution of money.

To this, we would suggest also the comments of one institutional attorney:

> When collective bargaining arrives, it is imperative that the institution has a planned idea as to where it is going and why. Once it knows where it is going and why, it must plan carefully for its bargaining in order to provide a pathway for the institution's plan. Without institutional planning and planning for bargaining, the institution is likely to find itself fenced in by its own responses to questions at the bargaining table.

The judgment of this study is to affirm the fact that collective bargaining has had an impact upon governing boards and will change the manner in which they conduct their business.

Financial Affairs

As for many aspects of institutional affairs, the roles of trustee and president are closely related. Of necessity, the chief financial administrator and president must prepare the budget and present it to the board with their recommendations. The president must consider estimates of income and expense. Clearly, all members of governing boards cannot participate more than partially in the deliberations on this basic document. In the colleges and universities visited – in common with the situation at most institutions – the president conferred at some length with the board chairman and the more active, influential members of the board committee on finances.

Nonetheless, the budget epitomizes the essence of board responsibility; that is, responsibility for the financial welfare of the institution. And, where unions exist, salaries and other financial benefits constitute a universal facet of negotiations. The trustees' responsibility for financial management – whether in terms of active involvement in the final decisions or of greater reliance upon presidential direction – is clearly impinged upon by academic collective bargaining.

In practice, campus visits confirmed the generalization, as noted before, that as a rule boards initially fail to appreciate this impingement. Negotiations are left in the hands of administrators who for one reason or another are believed to have knowledge and some experience. In institutions with a strong union, frequently supported by professional negotiators from the national association, initial contracts led to salary increases, more fringe benefits, and other provisions which circumscribed to a greater or lesser degree the financial flexibility of boards.

- At one college, for example, it was reported that the first contracts contained provisions which provided short-term financial gains for the administration but

led to long-term losses in terms of commitments to salary increments, teaching load, and similar matters. As the trustees became aware of this in annual budget review, they felt obligated to take a firmer hand in controlling the negotiating team. The situation was rectified by the appointment of an experienced negotiator as a member of the president's staff, with access to trustees, for handling negotiations and contract administration.

- At one private university, a worsening financial condition brought home to the board the implications of a contract retrenchment clause based upon financial exigency, which required consultation with union leadership prior to action. In the board's view, the situation appeared critical enough to warrant a salary cut—one implemented for other employees. As one administrator observed, "without collective bargaining, the trustees would have announced a salary cut and then moved on." In contrast, board members felt that they had to delay a response to urgent financial problems of the institution while they negotiated the specifics of this response with the faculty union. Whether this course was right or wrong in this instance, the result has led at this institution, as it will at others, to a decrease in board flexibility and control.

- At another institution, where problems over faculty consultation on salary increases led to unionization, the impact at budget time of contractual economic benefits to the faculty, *vis a vis* other allotments deemed important, led the trustees to establish a joint administration-trustee committee on faculty collective bargaining to work closely with the administrator who handled negotiations and contract administration.

- At a fourth institution, a preliminary contract agreement giving an administrative-faculty committee substantial control over instructional expenses resulted in a board reaction which brought its members actively into the negotiations process. As one concerned trustee stated, "The board cannot give away its responsibility for financial management."

In concluding these particular observations, it should be noted that economic provisions in contracts have an added implication for public institutions. When substantial increases are granted (as was the case at one public university which prior to unionism ranked among the lowest in salaries among public institutions in the state), boards find themselves obligated to defend their agreement to the legislature. It impels them to increase attention to legislative relations. At the same time, they find a tendency on the part of the union, usually in affiliation with a statewide teachers association, to lobby for increased support. This looms as especially significant where state governments approve line-by-line budgets.

By contrast, in one major state where an agency of state government handled negotiations, administrators and trustees in effect "slipped out of" a responsibility for faculty economic benefits and left the union to repre-

sent faculty interests directly to the state at the bargaining table. Nevertheless, the administrators and trustees have to contend with the consequences of provisions negotiated when they make final determinations on financial resources at budget time, especially in times of restricted support.

Overall, the study uncovered several ways in which collective bargaining has impinged upon the financial function of boards. There is no question but that trustees have lost flexibility in financial management, especially at times of crisis. They have had to become more sensitive to the faculty's financial needs and, especially, expectations. Presidents and boards have lost in contract negotiations their authority as final arbiters. They have had to give much closer attention to distribution of resources. They have been faced with conflicting pressures resulting from contracted salary and economic benefits versus funding for other personnel (a major factor in institutions with several unions) and for facilities and resources, such as library collections, laboratory equipment and supplies, building and grounds maintenance, and campus security.

In public higher education, boards face the possibility, if not the necessity, of coordinating with legally recognized faculty associations in solicitations for legislative support at budget time.

In bargaining in times of recession boards may find it necessary to authorize concessions on other matters such as faculty consultation on promotions and tenure, faculty voice in personnel policies, and, in some colleges where it does not exist, programmatic determinations. Finally, trustees may face pressures for direct faculty involvement in budgetary decisions (the right was granted at one institution for faculty to present its budgetary proposals directly to the board) and, as at one university, for formal faculty/union representation on the board itself.

Personnel Policies

Personnel decisions traditionally constitute an area in which trustees act *pro forma*. Except for the occasional tenure, appointment, or promotion case involving an individual who has come to the attention of the board in a negative light, what presidents recommend boards usually approve. Presidential recommendations, in turn, usually are based upon administrative review in community colleges, many of the four-year colleges and some state universities. Departmental recommendations approved at the school level by faculty committees and deans tend to prevail at the larger universities and established private colleges. As a general rule, collective bargaining does not appear to have changed this situation. Certainly, faculty unions to date have evidenced little tendency to become involved directly in the criteria for and substance of such decisions.

Some exceptions to the above generalization do exist, however. At one community college in New York State,

for example, the collective bargaining agreement details criteria for reappointment and promotion. It also establishes elected faculty committees whose recommendations go to the trustees along with those of the president. At the community college visited, the contract specified: "The Board agrees that it will make no change in existing policy relative to wages, hours, and other conditions of employment without appropriate prior consultation and negotiations with the Union." As a rule, contracts specify procedural due process, which requires administrative/board statements of reasons for refusing appointment or promotion.

Observations for this study did indicate that collective bargaining does tend to involve boards more than previously in personnel affairs. The inclusion of board policies in contracts, illustrated at Central Michigan by a letter of agreement with the bargaining unit committing the University to personnel policies in the faculty handbook, through governance procedures existing outside of the agreement, brings this matter to normal board attention.

Our interviews revealed instances in which administrative failure to adhere to due process led to grievances and, in some instances, appeals to the courts, all of which proved time-consuming and costly. As a consequence, boards have found it necessary to insist upon greater administrative attention to these contractual provisions. Trustees interviewed, especially after grievance appeals, referred to the special precautions they found necessary to observe in negative decisions on promotions and tenure awards.

Campus visits confirmed, also, that boards had become more sensitive to personnel problems. As one board member observed, "Contracts have imposed both overt and implicit restrictions upon our flexibility in supporting efforts to improve the quality of instruction." His board found it more difficult under collective bargaining to pursue policies related to faculty "productivity," which board members believed important for the welfare of the institution.

Viewing the process from the other perspective, faculty members in some situations distrusted board judgment in personnel decisions. They looked to the union to serve, in the words of one union president, "as a watchdog on administrative actions."

In this regard, differences do exist among colleges and universities, reflective of traditions and policies related to faculty participation in decision making. For example, in the graduate university visited it was stressed that faculty judgments tend to prevail. One staff member commented, "Traditionally faculty committees have been very tough on tenure and promotions." He added that this attitude had not changed with the advent of collective bargaining.

In contrast to other personnel questions, our observations confirmed the expectation that tenure and retrench-

ment do come to the attention of trustees. The interests of unions in protecting the job security of their constituents can be expected to conflict with the responsibility of boards for the financial welfare of the institution. Leveling off and declining enrollments, together with shrinking financial support from private and public sources, have generated issues associated with tenure and retrenchment policies. While the public institutions visited had not faced retrenchment, individuals interviewed recognized that the problem was impending.

One private university had become directly involved with what administrators and trustees viewed as the need to place some limits on tenured faculty and, in two instances, to take steps toward effective retrenchment. Both sides recognized the limitations imposed by tenure and by contracts favoring a "last in, first out" policy on the termination of individual appointments. They also recognized the prerogative of administrations and boards to initiate cutbacks based upon the viability of academic departments and programs. Even in the latter realm, however, trustees have found themselves less free to act as they believed institutional welfare required.

As noted previously, one board found its response to a financial crisis restricted by a retrenchment clause which required a declaration of financial exigency. Such an action would endanger student enrollments and philanthropic support. At a private university not included in this study, the contract required evidence that a financial exigency leading to retrenchment is "bona fide," subject to test in court. It stipulates further a complicated and very time-consuming review process involving faculty members.

The point here is that in most instances trustee authority on substantive aspects of tenure decisions and upon the right for programmatic retrenchment has not been overly restricted. However, the existence of a union supported by contractual provisions and appeals to the NLRB, state employment boards, and the courts does create greater caution in trustee decision-making.

Programmatic Affairs

In universities with advanced study, research and scholarship, board involvement also is usually *pro forma* on decisions related to degree requirements, course and program offerings, student evaluation, and similar matters. Correspondingly, with few exceptions to date (usually supporting the right of faculty to have some voice in these kinds of decisions), faculty unions, as a rule, have not negotiated contractual provisions touching upon programmatic affairs.

This generalization was substantiated on the campus visited. In institutions with a strong tradition of shared authority, departmental and school faculty committees and faculty senates and their committees played an active role. In contrast, at community colleges and the four-

year public colleges we noted that department chairpersons and deans tended to initiate policies related to academic affairs and that these policies tended to be confirmed at the presidential level. Decisions on these matters came to the fore in board deliberations when budgetary allotments were required or major questions on the distribution of financial resources arose.

Collective bargaining became a factor in programmatic decision making when policies contained implications for job security, work hours and schedules, course preparations, and related issues. At one private university, for example, an administrative/board policy supporting an increase in extension courses offered at locations off the main campus prompted union objections to scheduling. Travel to off-campus locations took time. Instructors had schedules which called for teaching one course in the morning and another in the evening. This brought trustee programmatic planning into relations with the union, although both sides recognized the importance of such educational innovation.

As another example, we have noted the program planning committee at Bridgeport which was established during negotiations as a mechanism for relating income to instructional costs. In the state system, union concern was expressed about the possibility of a decision to close one campus. While this may never arise, should it enter board deliberations one can anticipate the necessity for negotiating arrangements related to faculty retrenchment.

Governance

Board relationships with faculties traditionally have been channeled through presidents and major administrative officers. Faculty senates, where they exist, have served in an advisory capacity to presidents, primarily on academic policies. In major graduate universities, tradition has supported adherence in governance to faculty judgments in other than unique and unusual cases, as we have noted previously. Also, as we have pointed out, this tradition has been weaker in four-year and two-year colleges, especially the newer institutions.

The question for this study was whether academic collective bargaining alters this relationship. Interviews indicated that it has or at least has the potential to do so.

The president of one private university stated quite bluntly that "collective bargaining has resulted in a reduction, a shift of authority away from the board." The president of another institution viewed unionism as a force to "make governance more horizontal" and to eliminate his role as "ultimate mediator in conflict resolution." He saw unionism as a force pushing faculty governing bodies into more direct relations with the trustees.

In contrast, at the institution with a strong tradition of faculty participation, unionism was not viewed as altering the situation; in fact, governance does not appear in its contract. Nevertheless, members of the faculty senate at

this latter campus sit at board meetings and on trustee committees (other than that which deals with personnel decisions). One can suspect that any change would lead to an immediate and strong reaction from the union.

A number of observations emerged which bear upon governance. First, we sensed that faculty members in all settings believed that they should have a voice in decisions which affect their professional service. Where a tradition of such participation existed, it appeared as a "given" in negotiations and did not require specification; or it was covered by reference in the contract to formal board policies and statutes.

In colleges lacking faculty participation, the subject appeared in a detailed section on "rights of the faculty," or in the specification of arrangements for faculty participation at the department level and in committees and on senates. Local bargaining agents affiliated with the AAUP in general displayed a more active interest in governance issues.

Trustees likely will become more affected in the course of negotiations by the concern of faculty for involvement in decisions affecting their professional role. The nature of faculty anxiety was expressed very clearly by one union leader in the following comments. "Faculty tend to be turned off by committees which simply advise and then find their advice ignored. They want direct input at significant decision levels."

Underlying this anxiety law a common theme in this study; namely, a pervasive lack of trust and confidence in administration and governing board. As a consequence, boards likely will experience in negotiations a press for contractual provisions in place of delegated rights as support for a faculty role in institutional decision making. These may take the form of a contractual specification of faculty rights, of faculty participation via committees or representatives in personnel decisions (including even the appointment of academic administrators), or of provision for the union to serve as the sole voice for faculty interests. In any alternative, such provisions in agreements represent a curtailment of board authority.

At one institution, the reaction of administration and trustees to unionism was to strengthen the existing senate, providing it with improved office space and secretarial service and accepting its recommendations or returning them with reasoned explanations. In another institution, union-senate leadership proved thoroughly intertwined, so that each spoke with essentially the same voice. At one private university, trustees worried over the union's demand to elect representatives to the trustee executive committee. It was anticipated that this would appear at the bargaining table in the next round of negotiations.

Finally, one can anticipate measured efforts by unions to assure a faculty voice in the selection of administrators. As noted above, failure of a president and board to ad-

here to faculty handbook policy on this issue provoked unionism on one campus. At major universities faculty traditionally have exercised a significant influence in the selection of deans and have participated in the search and screening of presidential candidates. A contract at one private university, not in the study sample, specifies faculty involvement in the selection of deans, assistant deans, and the chief librarian; it further includes the expression "significant faculty participation" in the selection of the academic vice president and president. As one faculty observer commented, if the appointment of a major administrator is subject to contractual procedures, "then clearly the trustees have given away a very fundamental aspect of their responsibility."

External Relations

As stressed initially, collective bargaining is associated with other forces intruding upon institutional autonomy and the integrity of governing boards as the corporate bodies responsible for the management of their institutions. It follows that academic unions can be viewed, from the vantage of trustees, as a potentially negative influence, making the implementation of their responsibilities more difficult.

However, unionism proffers also a positive potential, as a force for clarifying internal relationships and for collaboration with trustees in a common concern for institutional welfare and faculty morale. Within this context, two aspects of external relations were manifested in the study. One had to do with essentially the question of public and governmental relations, the other with the legal prescriptions emanating from policies and decisions made by quasi-judicial agencies, such as the NLRB and state employee relations boards, and from appeals to the courts and their subsequent decisions.

In the area of public relations, the consensus was that faculty unionism made little difference. Either the general or philanthropic public was not aware of its existence or the climate of the state or local area was generally supportive of unionism. Only at one private university did unionism appear a matter of concern. There, the president commented that "donors and potential donors are raising questions as to who is in control of the university." He noted, however, that this resulted from the use of the local press by the union as a means of advocating its position in controversies with the administration.

At another private university, the administration and board had received union cooperation and support in lobbying efforts to prevent the expansion of a competing state campus. At Temple University, which is essentially a private but does receive state funding and have public members on its board, the union and administration had cooperated in developing strategy to press the institution's interests to the state government.

In public colleges and universities, campus unions did

not hesitate to use affiliation with statewide organizations to push their concerns directly with agencies of state government. For example, in Michigan and Nebraska faculty unions maintained contacts with the legislative lobbies of the state education associations, although the latter placed the concerns of the public elementary and secondary schools ahead of those for higher education. During the 1974 strike, the union for the New Jersey state colleges obtained a favorable settlement, despite evidence of erosion in faculty support, when the state AFL-CIO leaders met with the governor's counsel to work out terms.[1]

For boards this activity indicates at times a lack of confidence, as one union head stated it, in "the willingness of trustees to support the interests of the faculty to the legislature." It also provides further evidence of the intrusion of state governments into the internal affairs of public higher education in regard to salaries, tenure policies, and economic benefits. Unions simply seek to reach what they perceive as the locus of power, a fact which in itself would appear to be of consequence for trustees.

Collective bargaining also augments the dilution of the authority of governing boards in other ways in public higher education, although the result proved mixed at the colleges visited. State institutions in the study were, constitutionally based which gave the boards a greater degree of autonomy than that for statutory-based boards. Yet, in one state, legislators who viewed critically agreements made for what they perceived as excessive salary increases used these agreements against the institution in responding to subsequent proposals for funding. Even though the board in this instance handles negotiations with the union directly, it does so with what one trustee termed "a sense of the legislature looking over its shoulder."

For statutory-based colleges and universities, however, economic items in contracts frequently are subject to legislative approval. This is true in New York, even though a state agency handles negotiations. Such governmental scrutiny exists with or without collective bargaining; however, bargaining tends to place the trustees between two pressures – the faculty, for improved benefits, and the legislature, for economies. The internal pressure is stronger than previously and is likely to bypass the trustees to operate directly on the legislature, accentuating the involvement of politics in higher education.

One final facet of legislative relationships highlights the problem boards have in maintaining control. Of the first 23 legislative statutes under which faculty members can bargain collectively, only four explicitly referred to higher education; the remainder included it by implication. As a consequence, relations in public institutions are circumscribed by provisions intended for public employees in general. This confirms in practice the legal reality

1. James P. Begin, Theodore Steele, and Paula Alexander, *Academics on Strike* (New Brunswick, N.J.: Institute of Management and Labor Relations, University Extension Division, Rutgers University, 1975).

that faculty members are considered public employees, even though boards may be viewed as "management." Seventeen of these statutes do not even identify boards as the employer for negotiations.

The ramifications of state government activities are complex and go beyond the scope of this analysis, but they indicate the necessity for boards to keep informed about legislative developments. Not only does initial collective bargaining legislation constitute a significant concern, but subsequent legislation also can have major impacts. The statute formalizing the Office of Employee Relations in New York, although intended primarily for other state employees, also applies to the State University.

At times, legislatures themselves may not understand the implications of legislation. An extreme example of this has occurred in Nebraska where a law which established a two-year probationary period for teachers in public schools included the clause "other political subdivisions." This had an unexpected consequence for higher education when a court ruled that the clause included the state colleges. It left the board faced with what administrators interviewed called "instant tenure." Furthermore, the strong lobby of the teachers association has stood firm against changes in the legislation. Interestingly, the issue entered into negotiations when trustees sought support from the faculty union in obtaining an exclusion for higher education.

The quasi-judicial agencies which supervise collective bargaining also impact upon the role of governing boards. The effect begins prior to the election of a bargaining agent in the unit-determination proceedings. Formal hearings held by the NLRB and state employee relations boards receive arguments from competing faculty associations and from representatives of the administration and board regarding the inclusion in the unit of such persons as departmental chairpersons, part-time faculty members, administrative officers who also hold academic positions, and faculty members in professional schools. Resulting decisions affect administration/faculty relations which previously were within the province of governing boards.[2]

Trustees may find their institutions split, as in NLRB decisions creating separate units for law faculties. They may be pressured for increased administrative costs to provide staff for deans when department chairpersons are included in bargaining units. They may be faced with the financial consequences of part-time faculty members striving for many of the economic benefits allotted to regular faculty if the former are included in bargaining units or provided with bargaining rights.

Following unit determinations, either the union or the trustees can appeal to these boards on the basis of "unfair labor practices," a term which in itself implies a different attitude about internal affairs than existed prior to collective bargaining. This kind of referral imposes upon board

2. An elaboration of the factors which enter into unit determination decisions is included in Special Report No. 26 (April 1976) of the Academic Collective Bargaining Information Service.

members and their administrative officers considerable restraint prior to the election of a bargaining agent, it assures fairness in the election, of course, but at the same time it places both sides under the supervision of an external agency.

In Nebraska, the power of the employment relations board, the Court of Industrial Relations, is extensive. The Court has the authority to issue summonses and subpoenas, compel the production of documents, and make investigations. Furthermore, the act under which it was established provided that it "may establish or alter the scale of wages, hours of labor, or conditions of employment, or any one or more of the same." Nebraska illustrates an extreme situation of policy for public employees carried over to the colleges; but the implications are there for other states. Certainly, the existence of the Court imposes a strong pressure for reaching agreement with inevitable compromises, in order to avoid rule by an external authority.

At Central Michigan, the union charged unfair labor practice when the trustees approved as University policy a plan for evaluating teaching effectiveness submitted by the University Senate, consisting of faculty members, administrators, and students. The initial hearing officer for the Michigan Employment Relations Commission ruled against the Board on the basis that the plan constituted a condition of employment. Upon appeal, the full commission reversed the decision, but a court appeal appeared inevitable. Meanwhile, Board members stated that they felt that they had been unable to implement their responsibility for the educational quality of the institution.

Ultimately, the courts serve as a final recourse. The use of court action has become increasingly widespread in recent decades, and unionism represents only one of the many reasons for this. Here again, however, trustees find themselves bound by external agencies which rule on matters critical for the management of an institution.

Two instances of this have occurred in New Jersey. In 1972 the state Board of Higher Education set guidelines for awarding tenure which were viewed as having the effect of establishing quotas. The trustees of Middlesex College, following a modification of the original guidelines and reviews by the College's president and academic council, adopted a policy on tenure in line with the state board's stance. As a result, "the college administration, in complying with a legal mandate by the Board of Higher Education, found itself in possible violation of its negotiated agreement with the faculty union."[3] Ultimately, in 1974, the State Supreme Court ruled that the state board was empowered to establish guidelines for granting tenure. (This situation provides one illustration of the issue of primacy of prior law over negotiated agreements, as discussed in the Introduction.)

In 1976, a New Jersey Superior Court awarded punitive

3. Middlesex County College, "Case Study on Governance in a Unionized College," Middlesex, N.J., 1975 (Mimeographed).

damages against individual board members and the president of another college as a consequence of the termination of a faculty appointment. Although the award was overturned on appeal, the case indicates that trustee decisions in critical personnel cases will undergo union scrutiny and appeal to a far greater degree than would have occurred prior to collective bargaining.

It should be noted that unions concerned with due process and fairness to members of their constituency have the additional support of national associations with legal expertise and financial resources. They can conduct at times costly and time-consuming appeals to employment relations boards and courts in defense of the rights of their constituents. Boards, in turn, increasingly find that the burden of these kinds of actions – and the need to be informed and knowledgeable about avoiding such actions – requires legal counsel, frequently on a full-time basis. Furthermore, the expense of formal appeals was viewed by some board members interviewed as a deterrent to decision making and, thus, as an incentive to acquiesce to union demands or at least to be more cautious.

One observer noted in the course of the study that "as a result of collective bargaining, trustees must be more conscious of their actions, because these are subject to legal scrutiny, unfair labor practices, and court actions, and as a result [they] must be much more careful in making decisions which affect the work of faculty members."

Contract Administration

On the whole, trustees viewed contract administration as an administrative responsibility, a regular part of the ongoing management of the institution. At one private university, a trustee commented that there "was no board involvement in the ongoing relations with the union," although he noted that this "was changing because of financial problems." At another institution, board members indicated that they had never formally considered the implications of the contract upon the nature of their service. At a third, one trustee said that he was not aware of the binding arbitration clause in the contract.

However, as we pressed into specific facets of contracts and their administration, it became clear that several matters did impinge upon trustee role and functions and that at least the more active trustees had become involved.

First, as noted previously, the "legally binding" nature of agreements with unions imposes restrictions upon what boards can or cannot do. In practice, "terms and conditions of employment" is an elastic phrase, subject very much to what negotiators agree to bargain. The contract at Temple dealt with salaries and fringe benefits and with grievance procedures in some detail, but otherwise was quite brief and general, except in regard to the services of librarians. The community college contract, in-

contrast, elaborated in detail provisions related to the rights of faculty members, conditions of employment, benefits, work loads and class size, and similar items, the effects of which would appear to require consultation with the union on trustee actions which bear upon faculty service.

One can anticipate that contracts will tend to expand in scope and, in doing so, increase the need to negotiate a greater number of what have been viewed as strictly managerial concerns. More perceptive board members appeared aware of such a development, but none indicated that it had come up for review at board meetings.

Second, the agreement to submit grievances to binding arbitration as the last step in negotiations removes a prerogative from boards, as mentioned earlier. Apparently, some boards simply had not given this shift formal consideration. Interestingly, it was a faculty member at one of the state institutions who made this point most strongly. "Binding arbitration," he said, "does remove from the trustees an authority as court of last appeal which it previously held. This is a fundamental change in their authority." No board members interviewed volunteered such a statement, yet most of them recognized the situation when it was brought to their attention. What was evidenced by several administrators, however, was the use of contract appeal procedures as a means of testing and clarifying contract provisions – and, in two instances, for mitigating provisions which were felt to constitute an excessive intrusion into administrative prerogatives.

Third, contract administration involves retrenchment, a consequence brought home very strongly to trustees in the private universities visited. Needless to say, it had caused some very serious second thoughts about what should or should not be negotiated.

Internal Relations

Communications lie at the heart of good organizational relationships, and certainly union/administration-board relations are no exception. Faculty members, with few exceptions, voiced the complaint that boards and presidents were not open and frank on matters they perceived as closely related to their professional well-being. "They reveal only what they have to," was a common complaint. "The faculty are irked by what they feel is inadequate dissemination of information."

At the private institutions visited, as well as at other private colleges and universities observed, faculty members especially deplored what they viewed as only limited access to pertinent information at times of fiscal crisis. They sought more complete data on income and expense in order to protect their interests against competing allocations for what they considered less essential activities.

In contrast, presidents and trustees frequently ex-

pressed the view that they were as open and frank as conditions warranted. In the words of one trustee, "The board has never withheld any information relative to the financial situation in the university." Most presidents indicated that they communicated to the faculty at meetings or in published form regular information about decisions and policies, especially those which affect the budget.

One suspects that a good deal of the problem of communication lies in perceptions. As one faculty leader noted, "The faculty is concerned about secrecy and lack of openness on the part of the administration, but there probably is less of this in fact than the faculty believe." One trustee probably expressed the general view of board members and presidents when he said that "the board must be careful about the information it releases; the timing and the manner of release are important, but all the appropriate information is released." Yet it must be noted that one administrator bluntly commented that "we release as much information as possible, as long as it doesn't tell them [the faculty] anything." One trustee would "give the faculty what the president wants to, and not much else."

The response to the question of whether collective bargaining has changed the substance and amount of information distributed was mixed. Some administrators and trustees held the position that no change had resulted. Others pointed to an increase in financial data released to faculty but said this resulted from the impact of reduced income and the need to prepare faculty members for difficult budgetary decisions.

Overall, it appears that unionism does lead to a greater openness on many managerial matters, especially financial, if for no other reason than the fact that the union can insist upon this at the bargaining table. For trustees, it suggests that with unionism they will have to readjust their reception of their prerogatives and bring into their internal relations a more candid accounting for decision making.

The response to our inquiry concerning the impact of unionism upon the extent of personal trustee-faculty member communications was negative. No evidence emerged that trustees sought to expand existing contacts with faculty members to understand better their campus milieu. "If anything," one president commented, "collective bargaining has made the board more sensitive to formalized relations and its contacts with the administration." One suspects that he described the general situation quite accurately. Trustees apparently felt that bargaining tended to place restraints upon such personal relations with faculty members, although they appeared to maintain existing casual, and usually happenstance, contacts.

Whether trustees should seek to develop informal lines of communication with faculties to obtain a "better

sense of the situation," as one member stated it, remains conjectural and probably very dependent upon the particular campus. As a supplement to this, no evidence was found that trustees sought to develop formal relationships with union leadership, other than that necessitated by negotiations and contractual arrangements.

IV. CONCLUSIONS

Reflection upon the interviews conducted for this study and the foregoing analysis leads us to reiterate the need for caution in assessing the impact of collective bargaining. Unionism is a new, and certainly a dynamic, force for higher education. To a high degree, it does create that "new ball game" to which we referred earlier.

Yet the focus of an analysis upon one aspect of the complex of activities which constitute the management of universities and colleges may give it a disproportionate emphasis among other influences also at work.

This report has distinguished between matters which receive the deliberate attention of trustees leading to a considered and formal decision and those which boards review on a *pro forma* basis. As noted, collective bargaining encompasses decisions primarily in the latter category: those approved upon recommendation of the president with a limited board review. In effect, the terms and conditions of employment which constitute the substances of bargaining, even when broadly conceived, most properly belong to the area of managerial rather than financial and policy concerns.

Trustees, by and large, may have been upset by the advent of a faculty union, and they may hold at times strong negative sentiments toward it, but with few exceptions they have not involved themselves, individually or as a formal body, in a deliberate attention to it. Unionism constitutes a variation on the established managerial theme, the responsibility for which they leave primarily to the president and his or her chief administrators. Thus, even in colleges and universities which are organized, collective bargaining as a process and as a new relationship with faculty members has not received a great deal more than routine trustee attention. The exception to this appears during negotiations when a critical issue, such as retrenchment, arises.

In contrast to the prevailing attitude, however, collective bargaining calls into being, fundamentally and pervasively, a new pattern of relationships which justify the more deliberate attention of trustees. In concluding this analysis, therefore, we wish to highlight the more critical aspects of faculty collective bargaining which

support the judgment that it does indeed impinge upon the role and function of governing boards.

First, we wish to reiterate that collective bargaining has come to higher education in an era already characterized by the impact of several external influences upon colleges and universities. In total, these warrant at least the suggestion that they can alter significantly the corporate authority of governing boards. These influences include: federal agencies administering research and student support; state coordinating and control boards and legislative policies which accompany support to private institutions; state executive agencies which review budgets and the allocation of financial resources; regional accrediting bodies and those associated with disciplinary and professional specializations; local legislatures and executives for community colleges; and the courts.

To these forces' collective bargaining adds its own pressures: decisions by the NLRB and state employment relations boards under federal and state legislation; involvement in local negotiations by national faculty associations; affiliations of local faculty associations with statewide teachers unions; union-supported appeals to the judiciary; and the use of compulsory arbitration for grievances. Additionally, for many campuses faculty collective bargaining accompanies unionism on the part of other employees. We would submit, therefore, that boards would do well to review academic unionism in this broadened context and to think about their future role and function as a consequence of it.

Second, faculty unionism comes to the campus as a new legal instrumentality protected by state and federal legislation. Supervised by labor and employment relations boards holding quasi-judicial powers, collective bargaining places faculty members as equals "across the table" in determinations of terms and conditions of employment, no longer subject to final board authority. They negotiate a legally binding contract which then serves as the final point of reference for all matters it covers. The consequences are numerous.

In some instances, the contract makes legally binding trustee policies related to internal management. In any event, it takes precedence when the two overlap. This, in turn, leads to a formalization of relationships in which both faculty and trustees find themselves bound by the substance and implications of the contract. It is based upon an adversarial relationship which need not be antagonistic, although indeed at times it is. It calls for hard-headed bargaining in which the faculty will inevitably seek to obtain a maximum in economic benefits, in formally established personnel procedures, in clear bases for evaluation of services, in due process in personnel decisions and grievance processes, and in similar prerogatives.

Boards are conditioned further to increased caution in faculty relations by the ever-present possibility of a strike which, although very infrequent in higher education, remains a potential recourse.

In sum, the various legal facets of collective bargaining highlight for trustees a dimension of their role and functions which previously was in the shadows. Primarily, it imposes upon them the necessity to become increasingly sensitive to and informed about legislative statutes, proposed and enacted, at the state or federal levels, decisions of the employment relations boards and their policies, the roles and decisions of arbitrators, and the decisions of courts and their implications.

Third, a common theme in the visits was that collective bargaining imposed restraints upon trustee initiative and flexibility. It was viewed as a hindrance in trustee response to the need for change and innovation and as an additional problem in handling of financial crises. The visits indicated that this observation holds considerable validity. A board determination that retrenchment of some programs to accommodate shifts in student needs or retrenchment of a total faculty in response to reduced enrollments required under collective bargaining consultation with the union. This creates inevitable delays, as well as such potential consequences as time-consuming grievance appeals which ultimately may go to an external arbitrator and/or the courts.

In these actions, as in decisions in general, boards have to conform to the contract. They have to guard against appeals to the courts supported by the local and, at times, national faculty associations. In sum, they find themselves circumscribed by technical and legal specifications; they must contend with a legal faculty organization concerned with the rights and security of members of the total bargaining unit; they must be aware of the danger of precedents which make their future role more difficult as a price for the solution of an existing problem. Their job becomes more complex, at times requiring an amount of time and energy which the majority of trustees cannot or will not contribute. The situation tends to support a greater control over board policy by those trustees who do have the time and energy and who, in addition, have some knowledge and expertise about unionism.

This impact is by no means totally negative. Collective bargaining tends to diminish capricious decisions and to create a greater sensitivity to the impact of policies upon the faculty. Since policy change and innovation in most organizations required understanding and support among those affected, unions offer an effective means for this kind of communication, especially in institutions lacking a tradition of active faculty participation in governance.

Fourth, boards will do well to consider appointing an administrative officer with collective bargaining experi-

ence to handle negotiations and contract administration. Persons experienced in collective bargaining tend to recommend this action. Our observations certainly confirmed that both negotiations and contract administration benefit from the stewardship of this kind of professionalization. Such individuals tend to make the adversarial relationship a constructive one. They understand the need for both strength and compromise at the bargaining table. They have time and understanding to create a constructive relationship with union leaders, avoiding many costly grievance processes and appeals and giving the president and trustees helpful interpretations and guidance.

A concomitant, less constructive effect of such appointments, in our observations, resulted from the fact that such individuals may lack an understanding of the academic enterprise. They tend to bring into colleges and universities an attitude based upon industrial or public school experience. Also, they invariably are expected to negotiate with other (non-faculty) unions. One would expect this orientation to be offset in their relationships with other administrators and by the direction of their efforts by the president. However, the nature of the situation is such that they are likely to develop communication with board leaders. Relieved of direct responsibility for this activity, the president in turn may find other pressures of his office diverting his attention from collective bargaining.

The consequences of this kind of appointment do not suggest that such office serves the institution's interests badly. Quite the contrary. One suspects that, in general, academic collective bargaining, especially at institutions with unions for other employees, will require personnel offices to administer this activity. Rather, it appears that trustees ought to make sure that the distinctive academic qualities of a college or university do not become submerged in relationships more attuned to those with nonprofessional personnel.

Fifth, a pervasive input during the study suggests that trustees can benefit from a different view of faculty unionism than most persons expressed in interviews. A majority of board members stressed the importance of the economic and procedural aspects of collective bargaining. There can be little question of this. Faculty unions seek to improve salaries and fringe benefits; they strive to clarify and limit instructional and other facets of workload; they respond to a perceived need for improved due process and opportunities for impartial and prompt execution of grievances. Yet interviews with faculty members also evidenced a strong undercurrent of desire to have a greater influence in decisions which affect their professional services.

We suggest that this desire has historical origins. Since the turn of the century, at major universities initially, and

subsequently at other universities and colleges, faculty members have sought to improve their status as professionals with expertise in teaching and in specialized knowledge; concurrently, they have sought consultation, if not final determination, on policies which control both. The means of supporting faculty influence traditionally have taken the form of shared authority, buttressed by various committees, councils, and senates composed of elected representatives.

We sense that this press for faculty influence continues under collective bargaining, but that union organization constitutes a different means which trustees might profitably recognize. Viewed from this vantage, without in any way undervaluing the union concern with terms and conditions of employment, trustees might well see the constructive potential of academic collective bargaining. Several thoughts occur which relate to this prospect.

Collective bargaining has supported improvements in personnel administration related to the regularization and clarification of procedures and records. Due process supports good morale, as do effective grievance procedures and stated criteria for appointments, promotions, and tenure.

Similarly, collective bargaining has the potential, we believe, to contribute to an easing of suspicions and enhancement of confidence between faculty and administration. In this regard, it can provide a means for a sharing of mutual interest in the welfare of the institution. We suggest that boards of private colleges and universities can constructively exhibit a greater candor in the handling of limited financial resources. In public institutions, trustees can secure union-faculty support in the solicitation of needed public funding. In both sectors, boards can stress a variety of means for improving communications to and from faculties, which are possible especially with a strong union holding the support of faculty members and having the organizational sinews to adequately represent their interests.

This somewhat idealized view of union/board relationships becomes possible, we believe, with maturity in relationships, as both sides settle into the ongoing process of bargaining and administering, and as the initial antagonisms begin to subside. Fundamentally, as we have stressed, it is a "new ball game" with new rules. Boards have to contend with a new kind of authority which unquestionably constitutes a challenge to their own. Yet provision does exist in negotiations and in formal agreements for combining the two in a partnership which supports institutional welfare. As a consequence, the board very likely will find the adjustment difficult and at times unsettling; but the potential for constructive as well as disruptive consequences exists.

Certainly, in no instance, did we encounter evidence of a lack of faculty commitment to institutional good.

Rather, we sensed differences in perspective about institutional welfare among faculty and administrators and trustees. These differences called for communication that enabled each to relate their sense of self-interest and responsibility to a mutual understanding of what constitutes the best interests of the institution.

In the words of one president, "Once we get accustomed to collective bargaining, it may simply represent a new type of relationship that will have its own place within the institution's structure." To this, we would add the hope that trustees, in responding to the change, will understand its implications for their responsibilities so that their response will support a relationship germane to the academic enterprise.

APPENDIX A: Methodology

The purpose of this study has been to provide a descriptive analysis of how collective bargaining on the part of professional personnel in higher education has influenced or likely will influence the manner in which governing boards carry out their responsibilities for the overview and management of colleges and universities. It has focused on the interaction of trustees, administrators, and faculty members and the formal and informal structures through which this interaction takes place.

The study involved five colleges and universities selected as representative of various categories of institution: community college (Middlesex County College, New Jersey); private four-year college (Hofstra University, New York); private graduate university (Temple University, Pennsylvania); public university (Central Michigan University); and a state system of colleges (Nebraska State Colleges). In addition, a visit was made to the University of Bridgeport (Connecticut) because of a special situation there significant for the study.

The purpose of the visits was to obtain, through an examination of actual situations, significant input from which generalizations could be made that would have value for the broad spectrum of colleges and universities.

The institutions used for the study were selected in consultation with the Association of Governing Boards. All have experienced academic unionism for at least three years, four of the five having had faculty bargaining agents dating from the early 1970s.

Since professional unionism in higher education had its initial momentum in the northeastern and midwestern states, colleges and universities in these two areas were chosen. It was established also that each institution or system would have a single governing board which, with the president, represented "management" in relationships with the unions.

Substantively, the study has focussed on nine topics in terms of the functions of the boards and the impact of collective bargaining upon these functions, as follows:

- Role and powers of the board and its relations with the president
- Financial affairs
- Personnel decision making
- Educational/academic policies and programs
- Faculty governance
- Contract administration
- Information distribution and control
- External relations
- Faculty relations and perceptions of trust and confidence in board leadership

In assessing these topics, the study has considered three general questions. How have the activities associated with collective bargaining affected the role and functions of the board; how have they intruded into board decision-making and implementation, and what is the nature of this affect? How, specifically, have boards changed functions as a direct result of the existence of unionism and of the bargaining process and relationships? What implications for the future can be identified?

The study has relied upon two principal sources of data:

Documentary materials: Charters and basic legal documents pertinent legislation providing for collective bargaining (especially in the public sector) and for various employment relations boards; board by-laws or policies governing their institutions; minutes of board meetings; institutional handbooks and policies describing internal organization and arrangements for internal governance; negotiated contracts; records of grievance procedures; and decisions of courts, employment relations boards, and arbitrators.

In-depth personal interviews: At the six campuses visited as case studies, interviews were conducted with a total of sixty-six individuals representing boards, administrations, and faculties. The latter included leaders in the union and in faculty government not associated with unions. Interviews were scheduled at two-hour intervals. They were conducted by the principal investigator, in company with the research associate who took complete notes or, in a few instances, with the use of a tape recorder.

The interviews sought to obtain both descriptive and perceptive input which amplified and interpreted in operational terms the materials available from documentary sources and which supplemented the documentary data. To this end a topical interview instrument structured the discussions. This instrument provided a focus in the interviews and allowed also a flexibility in responses which brought out additional data. Persons interviewed were encouraged to talk freely. Interviews were adjusted to fit the specific knowledge and experience of individuals.

The data obtained from the interview notes were subject to a modified content analysis. Approximately 750 discrete items of information, description, and perception were obtained. These items, in turn, were reviewed and sorted into categories reflective of the nine topics noted above; in terms, first, of the specific impacts and, second, of the implications of a more general nature.

APPENDIX B: Other Findings

One question included in the interviews did not fit the analysis for this report. However, it is germane to the relationship of trusteeship and unionism, and the responses proved sufficiently interesting and insightful to warrant attention. Thus, this second appendix is included as a paraphrasing of selected, typical responses by administrators, presidents, and trustees to the following question:

> Assume that you are meeting with a trustee who serves at an institution at which a bargaining agent has been chosen or is about to be chosen. This trustee has been referred to you as someone knowledgeable about collective bargaining by faculty members. He seeks your advice. What advice would you give to him?

The most common reply stressed the need to employ an "experienced professional," someone with a sophistication in collective bargaining to handle negotiations and, later, contract administration for the president and board.

> Hire the best damned attorney you can find. Then take a tough line, but communicate with the faculty and improve relations with the faculty senate.

> Get a good attorney to handle negotiations and a good administrator to handle relationships. Accept the union as a mode of operation, but make every effort to protect what you consider necessary for good management.

> Appoint one individual to work directly with the president to handle union relationships [with all unions in this situation where several others represented secretarial, maintenance, and security staffs].

> Get the best bargainer possible, because trustees generally lack expertise and time. Clarify relationships and procedures, especially for personnel matters, and open up communication with the faculty.

> Employ someone with labor relations experience and attempt to build on the experience from the start. Attempt to come to grips with the process in a constructive manner.

A second sentiment commonly expressed was that of accepting collective bargaining in a constructive way and of working with faculty unions as positively as possible.

> Trustees should be conscious of gaining union commitment to the institution. A constructive direction ought to be explored.

> The union can stabilize relationships between the board and the people it represents. Therefore, the trustees should adopt an enlightened attitude about unions if demands are reasonable. However, they should fight unreasonable demands – but not the union *per se*.

It is difficult to undo what has been done [that which brought on unionism]. If the board wants to be adament, trustees should dig in and fight every move along the way and adhere to this. On the other hand, if trustees are more suportive of faculty participation [in institutional decision making] and seek good relationships, it is best to revise, clarify, and systematize personnel procedures, to recognize that collective bargaining exists, and to meet union representatives frankly and openly at the bargaining table. They should review carefully what the union proposes and then propose their own items . . . to develop openness and confidence in negotiations.

Remember that in the last analysis the faculty and trustees have the same interests in mind, those of the institution. It is best to put bargaining on a professional basis.

Be prepared to live with it, and get a good lawyer.

Become as informed as possible about the process and about what has happened in other places, communicate with the faculty, do not fight the union, adopt a posture of neither encouragement nor antagonism toward the union.

Related to the above sentiment, opinions voiced stressed not only accepting collective bargaining as a new mode of relationship but of seeking to make it work as effectively as possible.

Recognize the difference between adversarial relations and antagonistic relations.

If there is a real interest in unionism [among the faculty members], see to it that there is a fair election. Don't use coercive actions; they only give an underdog a better chance. Find out what the problems are, why the union is wanted. If only minor ones are apparent, it may be possible to forestall unionization; in any event, do not fight the union openly.

Don't be hard nosed. Establish good relations and make sure that there is good communication on issues. Seek to settle disputes without either side losing face.

Accept the union, live with it, work with it; but fight openly and hard over areas of dispute.

Finally, there were a number of miscellaneous comments which are summarized by the following statements.

Get a good first contract with management prerogatives in it. The first contract is important. Once in it, matters tend to stay there.

Distinguish between the faculty and the union and make it clear to the union why certain things are not in its bailiwick. Try to educate the faculty about the bargaining process.

The first contract and negotiations for it set the tone which carries on thereafter. It is important to get off on the right foot. I'm not in favor of being tough, but you have to be tough enough to protect the interests of the board and prerogatives of the administration.

Make sure the contract makes clear the role of the president. The union can be a force to systematize management practices and to formalize [constructively] relationships. It is just a question of doing business in a different way.

Try to limit the scope of negotiations. If necessary, to do this give on such items as agency shop and right to strike. The failure to do this puts us in an awkward position in relations with the union.

Develop the board's credibility.

Educate the lower levels of administration about the process and its implications and consequences.

Initial bargaining is characterized by a lack of experience on both sides. Trustees should recognize this and seek to get into the first contract what they feel important for the long range good of the institution. Keep out of the contract those things which the board wishes to reserve for itself.

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